

EXhibit B

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Coos Superior Court
55 School St., Suite 301
Lancaster NH 03584

Telephone: (603) 788-4702
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

NOTICE OF DECISION

**DOMINIC S. ALI
NORTHERN CORRECTIONAL FACILITY #81829
138 EAST MILAN ROAD
BERLIN NH 03570**

Case Name: **Dominic S. Ali v Edward Reilly, Warden**
Case Number: **214-2012-CV-00178**

Please be advised that on December 07, 2012 Judge Bornstein made the following order relative to:

Defendant Motion to Amend his Memorandum of Law in Support of his Motion to Withdraw Nolo
Contendere Plea - Granted.

438-2004-CR-01627

December 10, 2012

David P. Carlson
Clerk of Court

(463)

C: Kathleen A. Broderick, ESQ; BRETT J HARPSTER, ESQ

THE STATE OF NEW HAMPSHIRE
SUPERIOR COURT

Coos County, ss

State of N.H.

v.

Dominic Ali

Doc NO# 438-2004-CR-01627

Defendant motion for Permetion to Amend
his memorandum of law in Support of
his motion to withdraw Nolo Contendere Plea

Now Comes, Dominic Ali, sui Juris, respectfully
request this Honorable Court to grant this
motion for the following reason states below

The defendant has a motion to withdraw a
Nolo contendere plea that was not intelligently
and voluntrily made. The defendant states that
his Attorney did not provide true advice and
professional opinion and failed to disclose
material facts and misrepresentation of material
facts and not routinely explained the nature of
the offense or plea in sufficient detail. See:
Boykin v. Alabama, 395 U.S. 238 (1969) Also
State v. Sharkey, 155 N.H. 638 (2009)

This motion has nothing to do with Ali's
Case No. Ali v. Reilly, 214-2012-CR-00178

Back Ground

A Domestic violence Final order issued pursuant to RSA 173-B:9, IV On April 8, 2004 by the Hillsborough County Superior Court that was filed under false allegation when there was insufficient allegation of facts to support the issuance of an ex-parte temporary protective order to the plaintiff. See: Fillmore at 147 NH 283

On March 24, 2004, The plaintiff filed a petition for Domestic violence pursuant to RSA 173-B with the Hillsborough County Superior Court Doc 04-M-44. The Court having considered the plaintiff petition, the Court issued a summons for the defendant to appear before the Court on April 8, 2004 for a hearing for the defendant testimony. Some how in this case, with respect to the Court, the Hillsborough County Superior Court never summoned the defendant, because the Court do not have record of the issued summons for the defendant. See Exhibit (A 1)

On April 1, 2004, the defendant was ordered to appear before the Court to answer to the complaint charging him simple Assault RSA 631:2-A, and Stalking - Appear RSA 633:3-A, that
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issued on March 27, 2004. See: Exhibit A

After he was arrested without been served with the Domestic Violence petition at his residence 335 Cedar St. Manchester N.H. 03103. The defendant plead not guilty and trial was scheduled on May 26, 2004. Both charges were dismissed by the Court. See: EXHIBIT(A 2) Judge Norman E. Champagne.

Parallel Citation

This is the same issues five months later On August 29, 2004, The defendant EX- Girl friend found out that she was five months pregnant and the defendant wants nothing to do with her, she by anger and slander reported to the New Boston P.D. that the defendant violated a Domestic Violence Final order. Issued by the Superior Court. And the defendant was arrested again on a active warrant. After a hearing, the Goffstown District Court sentence the defendant to (29) Days credit by his incompetent assistance of Counsel Mr. Rayn Norwood who was only interested in a fee, Ci Davis v. Alaska, 415 U.S. 308 (1974)

Strickland v. Washington, 466 U.S. 668.

(1984). The Court of appeals agrees, that the six Amendment impose on Counsel a duty to investigate because a reasonable effective assistance must be based on professional decision, and informed legal choices can

be made only after investigation of options. The Court observed that Counsel's investigatory must be assessed in the light of the information known at the time of the decision not in hindsight, and the amount of pretrial investigation that is reasonable defense measurement.

Strickland, Holds were Counsel does not provide such information, Counsel has performed ineffectively, and the Court must judge the reasonableness of Counsel on the fact to the particular case. In the instance case, Attorney Rayn Norwood from the public Defender's office failure to consider all circumstances to investigate the plaintiff's lies and false allegations were there is no specific finding Criminal Conduct in order for the Court to issue that restraining order against the defendant. Were he did not familiarize himself with the discovery and neither did he provide the defendant with the discovery. See:

Williams v. Washington, 59 F.3d 673 (7th Cir 1995) also, Brady v. Maryland, 373 U.S. 83 (1963) Also; State v. Laurie, 139 NH 325 (1995).

Attorney Rayn Norwood for the defendant did not review all possibilities for exculpatory evidence that existed in this case and never requested them or move for them.

See: State v. Laurie, 139 NH 325 (1995) also State v. Symond, 131 NH 532 (1989).

The due process clause of the Fourteenth Amendment requires that a plea of guilty be made knowingly and voluntarily, because it involves a waiver of constitutional rights on the part of the person making the plea.

The rule requires that the Court must address a defendant in open Court to make sure that there is a clear understanding between the Court and the defendant of the following;

- ① The nature of the charges
- ② The guilty plea was free from coercion
- ③ The consequence of the guilty plea
- ④ Defendant's rights to a jury trial by jury
- ⑤ The right to testify and call witness.
- ⑥ The right to cross-examine witness and the privilege against self incrimination

The Goffstown District Court have no record showing the defendant knowingly and voluntarily waives these Constitutional Rights.

Counsel for the defendant threatened him to take a plea Nolo because "it meant nothing".

Court records showed the defendant had, See: Henderson v. Morgan, 426 U.S. 637 Led 2d (1976)

these allegation dismissed. This is the part of the state to combat conspiracy to unlawful goals. This prosecution misconduct seriously affect the fairness integrity or public reputation Judicial Proceedings see: State v. MacInnes, 151 NH 732 (2007). And Counsel for the defendant failed to subject prosecution to the meaningful adversarial challenge. see: U.S. v. Jimenez, 270 F.3d 554 (CA8 Cir. 2001) But to misinform the defendant about the true nature of the offense Nolo conviction. The court acceptance of the defendant plea violated his due process of law as guaranteed by Part (II) article (15) of the State of N.H. Constitution and Federal.

Conclusion

The defendant respectfully request this Honorable Court to vacate his conviction of Nolo contendere plea and dismissed with ~~prejudice~~ perjury, and to correct a manifest injustice.

Certificate of Service

I, Dominic Ali, hereby certify under penalty of perjury, that a copy of this motion was forwarded to AG Office. Nov 1, 2012